

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

INTERNATIONAL UNION OF
PAINTERS AND ALLIED TRADES
DISTRICT COUNSEL 711 HEALTH &
WELFARE, VACATION, AND
FINISHING TRADES INSTITUTE
FUNDS, and HARRY J.
HARCHETTS and CLEMENT SOMMERS,
as Trustees and Fiduciaries for DISTRICT
COUNCIL 711 HEALTH & WELFARE,
VACATION AND FINISHING
TRADES INSTITUTE FUNDS,

Plaintiffs,

v.

HAVANA CONSTRUCTION
CORPORATION et al.,

Defendants.

Civil Action No. 09-6240 (SRC)

ORDER

CHESLER, U.S.D.J.

This matter comes before the Court on Plaintiffs' motion for default judgment as to Defendants Havana Construction Corporation and Lucia Martinez. The supporting affidavit by counsel claims damages for outstanding contributions in the amount of \$5361.71, but the letters submitted as evidence of the amount of damages were written by the Funds' administrator, not by counsel, and the claimed amount of damages is not supported by any affidavit from one with personal knowledge of the amount of damages. Also, the supporting affidavit claims liquidated damages in the amount of 20% of total delinquent contributions, but does not demonstrate that

such liquidated damages are provided for under the plan.¹ The motion for default judgment will be denied without prejudice, and Plaintiffs may refile the motion if supported by admissible evidence of damages.

For these reasons,

IT IS on this 22th day of April, 2010,

ORDERED that Plaintiffs' motion for entry of default judgment (Docket Entry No. 6) is **DENIED** without prejudice.

s/ Stanley R. Chesler
Stanley R. Chesler
United States District judge

¹ In an action for delinquent contributions, the statute provides that the Court shall award "liquidated damages provided for under the plan in an amount not in excess of 20 percent . . . of the amount determined by the court under subparagraph (A)." 29 U.S.C. § 1132(g)(2)(C)(ii).